

**Minutes of 1000th Meeting of the
Town Planning Board held on 9.12.2011**

Present

Permanent Secretary for Development
(Planning and Lands)
Mr. Thomas Chow

Chairman

Mr. K.Y. Leung

Mr. Walter K.L. Chan

Mr. B.W. Chan

Mr. Rock C.N. Chen

Mr. Y.K. Cheng

Professor Eddie C.M. Hui

Professor Paul K.S. Lam

Dr. C.P. Lau

Dr. James C.W. Lau

Dr. W.K. Lo

Mr. Roger K.H. Luk

Mr. Timothy K.W. Ma

Miss Anita W.T. Ma

Professor S.C. Wong

Dr. W.K. Yau

Principal Assistant Secretary (Transport)
Transport and Housing Bureau
Mr. Fletch Chan

Assistant Director (2), Home Affairs Department
Mr. Eric Hui

Deputy Director of Environmental Protection
Mr. Benny Wong

Director of Planning
Mr. Jimmy C.F. Leung

Deputy Director of Planning/District
Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Mr. Stanley Y.F. Wong

Vice-Chairman

Professor Edwin H.W. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Professor P.P. Ho

Ms. Anna S.Y. Kwong

Ms. Julia M.K. Lau

Mr. Maurice W.M. Lee

Mr. Clarence W.C. Leung

Mr Laurence L.J. Li

Dr. Winnie S.M. Tang

Ms. Pansy L.P. Yau

Mr. Stephen M.W. Yip

Director of Lands
Miss Annie Tam

In Attendance

Assistant Director of Planning/Board
Mr. C.T. Ling

Chief Town Planner/Town Planning Board
Miss H.Y. Chu

Senior Town Planner/Town Planning Board
Ms. Donna Tam

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 998th Meeting held on 25.11.2011

[The meeting was conducted in Cantonese.]

1. The Secretary said that in order to allow time for Members to study the draft minutes, it was suggested that the minutes be confirmed by the Board at its special meeting to be held on 13.12.2011. Members agreed.

Agenda Item 2

[Open Meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

- (i) Appeals lodged by Turbo Top Limited against the Court of First Instance's Judgment on two Judicial Reviews (HCAL No. 23 & 52 of 2011) in respect of the Cheung Kong Center site on the Draft Central District Outline Zoning Plan No. S/H4/13
2. Mr. Felix W. Fong declared interest in this item as he had current business dealings with Hutchison Whampoa Ltd. (HWL) and the subject judicial reviews (JRs) were submitted by Turbo Top Limited which was a subsidiary of HWL. Members noted that Mr. Fong had tendered apology for not being able to attend the meeting.
3. The Secretary reported that on 25.11.2011, the Board was briefed on the Court of First Instance's (CFI) judgment handed down on 21.11.2011 to dismiss the two JRs lodged by Turbo Top Limited against the Board's decisions in respect of the Cheung Kong Center (CKC) site on the draft Central District Outline Zoning Plan (OZP). In the judgment, the Court also ordered that the interim stay of the submission of the draft OZP to Chief Executive in Council (CE in C) for approval to be lifted. However, such lifting would only come into effect seven days from the judgment to allow time for the Applicant to consider

whether to apply for an interim stay of the lifting pending appeal. If the Applicant applied for an interim stay, the current interim stay would continue pending consideration of the application.

4. The Secretary said that on 25.11.2011, the applicant applied to the Court to take out summonses for continuing the interim stay. On the same day (25.11.2011), the applicant also lodged two appeals against CFI's judgment on the two JRs based on similar grounds of challenge in the CFI hearing. A copy each of the Notice of Appeal was tabled at the meeting for Members' information.

5. The Secretary said that the Department of Justice (DoJ) had been instructed to inform the applicant that the Board maintained its previous stance on opposing the interim stay, mainly because it would cause undue delay to some major projects in Central District involving wide public interest under the policy initiative of "Conserving Central", such as the "Central Oasis" project at the Central Market site and the proposed hotel development at the Murray Building site. Besides, it was also unreasonable and disproportionate to delay the planning for the entire Central area because of a dispute over one single site. Members agreed that the Secretary should represent the Board in all matters relating to the appeals in the usual manner.

6. The Secretary said that the hearing of the interim stay was fixed on 9.1.2012, but the hearing date of the appeals was not yet fixed.

(ii) Town Planning Appeal Abandoned

Town Planning Appeal No. 8 of 2007

Proposed Comprehensive Development Comprising 'Office', 'Eating Place',
'Shop and Services' and 'Place of Recreation, Sports or Culture'

in "Comprehensive Development Area (1)" Zone,

14-30 King Wah Road, North Point

(Application No. A/H8/377)

7. The Secretary reported that an appeal against the decision of the Town Planning Board (the Board) on 9.2.2007 to reject on review an application No. A/H8/377 for proposed comprehensive development comprising office, eating place, shop and services and place of recreation, sports or culture uses at a site zoned “Comprehensive Development Area (1)” on the North Point Outline Zoning Plan was received by the Appeal Board Panel (Town Planning) on 30.4.2007. On 28.11.2011, the appeal was abandoned by the Appellant on his own accord. On 1.12.2011, the Appeal Board Panel (Town Planning) confirmed the abandonment in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations.

(iii) Town Planning Appeal Received

Town Planning Appeal No. 14 of 2011

Proposed House (Private Garden Ancillary to House)

in “Green Belt” Zone, a piece of Government Land adjoining

Lot 400 in D.D. 34, Block B, Rainbow Height, Kon Hang, Tai Po

(Application No. A/TP/497)

8. The Secretary reported that an appeal was received by the Appeal Board Panel (Town Planning) on 15.11.2011 against the decision of the Town Planning Board (the Board) on 9.9.2011 to reject on review an application for proposed house (private garden ancillary to house) in “Green Belt” (“GB”) zone on the draft Tai Po Outline Zoning Plan No. S/TP/23. The application was rejected by the Board for the following reasons:

- (a) the proposed development was not in line with the planning intention of “GB” zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development in “GB” zone and no strong planning justifications had been provided in the submission for a departure from this planning intention; and
- (b) approval of the subject application would set an undesirable precedent for other similar development proposals in the “GB” zone. The cumulative

effect of approving such proposals would result in a general degradation of the environment in the area.

9. The Secretary said that the hearing date of the appeal had yet to be fixed. The Secretariat would act on behalf of the Board in dealing with the appeal in the usual manner.

(iv) Town Planning Appeal Statistics

10. The Secretary reported that as at 9.12.2011, 23 cases were yet to be heard by the Appeal Board Panel (Town Planning). Details of the appeal statistics were as follows:

Allowed	:	28
Dismissed	:	120
Abandoned/Withdrawn/Invalid	:	154
Yet to be Heard	:	23
<u>Decision Outstanding</u>	:	<u>1</u>
Total	:	326

[Mr. Roger K.H. Luk arrived to join the meeting at this point.]

Kowloon District

Agenda Item 3

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/K11/203

Proposed Houses in “Government, Institution or Community” Zone

99 Shatin Pass Road, Wong Tai Sin, Kowloon

And adjoining Government Land

(TPB Paper No. 8968)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

11. The following representative of the Planning Department (PlanD) and the applicant's representatives were invited to the meeting at this point:

Mr. Eric Yue	District Planning Officer/Kowloon (DPO/K), PlanD
Mr. Tong Li)
Mr. Antonio Tam)
Mr. Wagner Lam) Applicant's Representatives
Mr. Raymond Cheng)
Mr. Daniel Leung)
Mr. Henry Chan)

12. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited Mr. Eric Yue to brief Members on the background of the application.

13. With the aid of a Powerpoint presentation, Mr. Eric Yue presented the application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for proposed houses at the application site which was zoned "Government, Institution or Community" ("G/IC") on the approved Tsz Wan Shan, Diamond Hill and San Po Kong Outline Zoning Plan (OZP) No. S/K11/25;
- (b) the application was rejected by the Metro Planning Committee (MPC) on 22.7.2011 and the reasons were:
 - (i) the "G/IC" zone was intended primarily for the provision of government, institution or community (GIC) facilities serving the needs of the local residents as well as the general public. The

application, which was solely for non-GIC use, was considered not in line with the planning intention of the “G/IC” zone; and

- (ii) the application was considered not in line with the Town Planning Board Guidelines No. 16 for Application for Development/Redevelopment within “G/IC” Zone for Uses other than GIC Uses under section 16 of the Town Planning Ordinance in that more than 50% of the total site area or gross floor area of the proposed development were for non-GIC use and hence should be considered by way of an application for rezoning;

[Mr. Rock C.N. Chen arrived to join the meeting at this point.]

- (c) the applicant had submitted written submission in support of the review application and the major grounds of review were summarized in paragraph 3 of the Paper;
- (d) part of the application site was the subject of a previous application (A/K11/38) for residential development submitted by the District Lands Officer/Kowloon East, Lands Department (DLO/KE, LandsD) to facilitate a proposed contemporaneous exchange of part of NKIL 2763 s.C with the government land to the east to allow a better site configuration of the remaining site for GIC uses. The application was approved by the Board on 22.5.1987;
- (e) departmental comments – the Director of Social Welfare (DSW) advised that although there were a number of social welfare facilities in the subject area and Wong Tai Sin District, there was still a strong need for suitable sites for welfare facilities in meeting the increasing services demand. The subject “G/IC” site could still be considered for setting up welfare facilities. The Secretary for Education (SED) advised that the application site was no longer suitable for school development in view of its small site area and site configuration. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD commented that the two proposed houses

were sitting too close to the adjacent kindergarten, leaving only about 2m separation between them and causing overlooking effects. The congested layout could allow only a narrow path/planter of 1.5m wide and a small courtyard between the 2 houses that would likely suffer from poor natural lighting and hence overshadow condition;

- (f) public comments – one comment from the the principal of the kindergarten next to the application site was received. The commenter raised objection to the application for the reasons that the proposed development was taller than the kindergarten and was too close to the kindergarten which would have adverse natural lighting and air ventilation impacts on the kindergarten. The commenter also requested that consideration should be given to the impacts of the proposed development on the structural safety of the kindergarten, the noise and air pollution generated during the construction stage and the preservation of trees on site;

[Dr. W.K. Lo arrived to join the meeting at this point.]

- (g) PlanD's views – PlanD did not support the review application based on the assessments set out in paragraph 7 of the Paper, which were summarized below:
 - (i) the application site formed an integral part of a belt of low-rise “G/IC” zone for schools and institution. The “G/IC” zone was intended primarily for the provision of GIC facilities serving the needs of the local residents as well as the general public. It was also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments;
 - (ii) based on the requirements of the Hong Kong Planning Standards and Guidelines (HKPSG), there would be deficit in the provision of GIC facilities such as clinic, post office, social centre for the elderly and

home for the elderly in the Wong Tai Sin District. DSW also advised that the application site could still be considered for welfare facilities to meet the increasing services demand. The proposed house development, with the entire application site proposed for non-GIC use, was considered not in line with the planning intention of the “G/IC” zone and the Town Planning Board Guidelines No. 16;

- (iii) while the applicant pointed out that there was contradiction between the lease conditions of the private lot NKIL 2763 s.C and the OZP requirements if planning permission was not granted by the Board, it should be noted that more than 30% of the application site was government land and the application site therefore did not solely involve private land;
- (iv) the OZP requirements and lease conditions were under two separate regimes i.e. land administration and town planning regimes. The designation of various zonings on the OZP was to reflect the long term planning intention of the area. Although the proposed house development was not considered incompatible with the land uses in the adjacent area, it was not in line with the planning intention of “G/IC” zone and the Town Planning Board Guidelines No. 16. Should the applicant wish to proceed with the proposed house development, he should submit a rezoning application to the Board for consideration; and
- (v) on design aspect, the applicant argued that the proposed house development would comply with Buildings Regulations. However, CTP/UD&L of PlanD considered that the proposed house development would create overlooking effects to the adjacent kindergarten and the layout of the proposed house development was too congested which would lead to poor natural lighting.

14. The Chairman then invited the applicant’s representatives to elaborate on the

application.

15. Mr. Tony Li tabled a newspaper cutting of 9.12.2011 and queried why it was reported in the press that the subject application had already been rejected before it was considered by the Board.

16. In response, the Chairman said that the Board had not yet made any decision on the subject review application.

[Miss Anita W.T. Ma arrived to join the meeting at this point.]

17. Mr. Tony Li then made the following main points in respect of the application:

- (a) the DSW did not raise any comments on the strong need for the provision of social welfare facilities in this area when the subject application was considered at the s.16 stage by the MPC. The DSW also did not specify what types of social welfare facilities were required to be provided in the district;
- (b) it was stated in paragraph 7.2 of the TPB Paper that the application site formed an integral part of a belt of low-rise “G/IC” zone for schools and institution. However, it was confirmed by the Secretary for Education (SED) that the subject site was no longer suitable for school development in view of its small site area and site configuration;
- (c) the objection raised by the principal of the kindergarten adjacent to the application site was considered not valid. It was argued by the kindergarten principal that the proposed development was taller than the kindergarten and was too close to the kindergarten which would have adverse natural lighting and air ventilation impacts on the kindergarten. However, it should be noted that in the building plan submission made by the applicant, the layout of the proposed development complied with all the statutory building requirements. The kitchen of the proposed development would not be directly facing the kindergarten and would not

have any adverse impact on it. The height of the proposed development at 10.62m would have no adverse impact on the kindergarten. As the application site was already formed, there would not be any site formation works and the construction of the proposed development would not affect the structural safety of the kindergarten. Regarding noise impact, it should be noted that any construction works at the application site would generate noise impact and the applicant would comply with all relevant regulations in respect of control of construction noise. Regarding the concern of the kindergarten principal on tree preservation, the existing trees within the site would be preserved and new trees would be planted;

- (d) it was stated in paragraph 7.2 of the Paper that based on the requirements of the HKPSG, there would be deficit in the provision of GIC facilities such as clinic, post office, social centre for the elderly and home for the elderly in the Wong Tai Sin District. However, it should be noted that the site was private land and would not be available for the development of post office and public clinic. In addition, the size and configuration of the site would also not be suitable for use as social centre for the elderly or home for the elderly. It was also noted that there were at present 40 elderly facilities in Wong Tai Sin and there should not be any deficit;
- (e) the lease of the subject site permitted the development of house and the land owner's right would be deprived if the applicant was not allowed to develop houses for his own use for reason that the site should be reserved for GIC uses without specific proposal. The applicant would be aggrieved by such arrangement;
- (f) it was the Government's policy to allow redevelopment of suitable "G/IC" sites for other uses;
- (g) the design of the proposed development would not generate any adverse impact nor overlooking effect; and
- (h) in considering the subject case, the Board should take into account the

planning circumstances relevant to the subject site only, rather than the planning circumstances related to the whole Wong Tai Sin District. The applicant had a specific proposal for the site and the Board had already granted permission for house development at the site in 1987.

18. Mr. Antonio Tam said that there was an existing house at the application site. If the house was not to be redeveloped, undertaking of alteration and addition works to the existing house did not require planning permission from the Board, if the works complied with the Buildings Ordinance and the lease conditions

19. In response to a Member's question on the land status of the site, Mr. Eric Yue referred to Plan R-3 of the Paper and said that the area covered by the hatched lines within the application site was the application site for a proposed house development under Application No. A/K11/38, which was approved by the Board in 1987. The application was submitted by the DLO/KE, LandsD to facilitate a proposed contemporaneous exchange of part of NKIL 2763 s.C with the government land to the east of the lot. The planning permission was still valid. The dotted area within the application site was government land and the remaining area within the application site was the applicant's private land.

20. The Member asked why the applicant had to use the government land for the ingress/egress of the proposed development. Mr. Eric Yue clarified that according to the applicant's submission, the government land was proposed to be used as ingress/egress and car parking spaces for the proposed house development. Mr. Daniel Leung said that under the lease, a right of way had to be provided by the Government and this had to be provided through the government land.

21. The Chairman said that the Board would consider the proposed development taking into account the relevant planning considerations.

22. A Member asked if the applicant's representatives had any information on the elderly population in the district to support their argument that there was adequate provision of elderly facilities in the district, Mr. Tong Li said that the information should be provided by the Government.

23. Mr. Eric Yue said that PlanD had based on the elderly population of the district to assess the demand for elderly facilities. The Chairman said that the Member asked if the applicant's representatives knew the elderly population because the applicant's representatives said that there was adequate provision of elderly facilities in the district.

24. Mr. Tony Li said that whether there was deficit in elderly facilities in the district, the site, with its small size and configuration, was not suitable for the development of elderly facilities.

25. The Chairman said that the applicant's representatives indicated that the applicant had grievances as he was deprived of the right to develop according to the right under the lease. He asked if the applicant considered that his right should cover the government land which was proposed to be used as the right of way for the proposed development.

26. In response, Mr. Daniel Leung said that under the lease, the Government had to provide a right of way for the subject site. The applicant did not intend to take over the government land, but just to rent the land for the purpose of providing this right of way.

27. In response to a Member's question on any requirement on the dimension of the right of way in the lease, Mr. Daniel Leung said that the lease did not specify the dimension of the right of way. However, it should be provided as an emergency vehicular access (EVA) and complied with the relevant standard.

28. In response to another Member's question, Mr. Antonio Tam said that the government land had not been included in calculating the development potential of the site.

29. The Chairman asked whether there was any change in the DSW's comments on the application at the time when MPC considered the applicant and now as claimed by the applicant's representatives. In response, Mr. Eric Yue said that at the s.16 stage, PlanD had made an assessment regarding the need of the subject site for providing GIC facilities in the district (paragraph 11.1 in Annex A of the TPB Paper). In his review submission, the applicant argued that the application site was not required for GIC use as there were plenty of social welfare facilities serving the needs of the local residents in the district. In this regard,

DSW was specifically requested to provide comments on this aspect, taking into account the applicant's review submission. In response, the DSW advised that there was still strong need for suitable sites for welfare facilities in meeting the increasing services demand in the district.

30. Mr. Daniel Leung considered that it was unfair to the applicant as government departments provided new comments on the application at the s.17 stage. Mr. Leung also said that the lease also required the provision of parking spaces for the development within the site. The government land to be occupied by the right of way and car parking spaces for the proposed development had been minimized. As the remaining area was too small for any use, the applicant intended to rent the whole piece of the government land and to be responsible for the maintenance for the land.

31. In response to the Chairman's question, Mr. Eric Yue said that the applicant proposed to use the government land for the provision of vehicular access and four parking spaces for the proposed development. As stated in paragraph 5.3.1 of the Paper, the DLO/KE advised that if the subject application was approved by the Board, the applicant had to apply for a land exchange for the proposed development.

32. As the applicant's representatives had no further comment to make and Members had no further questions, the Chairman informed the applicant's representatives that the hearing procedures for the review had been completed and the Board would further deliberate on the application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the applicant's representatives and the representative of PlanD for attending the meeting. They all left the meeting at this point.

Deliberation Session

33. In response to a Member's question, the Secretary said that the previous application (No. A/K11/38) approved in 1987 involved a smaller site area and the applicant proposed to surrender part of his land for exchange of the adjacent government land for the proposed development. The application for lease modification to effect the approved development was however withdrawn by the applicant. The current application involved a larger site which included the whole of the applicant's lot and the adjacent government land.

As the application site was zoned “G/IC”, the proposed development should be considered against the planning intention of the “G/IC” zone for the provision of GIC facilities and the Board’s Guidelines No. 16 for application for development/redevelopment within “G/IC” zone. As the proposed house development was entirely a private development and there was deficit in the provision of GIC facilities in the district, the proposed development was considered not in line with the planning intention of the “G/IC” zone. As more than 50% of the total site area and gross floor area of the proposed development were for non-GIC use, the proposed development should be considered by way of an application for rezoning.

34. In response to another Member’s question on the right of way proposed by the applicant, the Secretary said that if the Government intended to develop this piece of government land, a right of way should be provided for the applicant’s lot.

35. A Member considered that the proposed development was not in line with the planning intention of the “G/IC” zone and should be rejected. This Member also did not agree with the applicant’s representatives’ argument that relevant departments should not provide new or additional comments on the application during the s.17 stage. On the contrary, the s.17 review provided opportunity for the applicant to submit further information to support the application for consideration by the Board. Concerned departments should provide responses to the further information made by applicant to facilitate the Board’s consideration of the review application.

36. In response to another Member’s question, the Secretary said that planning permission was not required if the applicant renovated the existing house. However, if the applicant redeveloped the site for residential use, planning permission from the Board would be required.

37. The Chairman concluded that the subject application should not be supported as it was not in line with the planning intention of the “G/IC” zone and the Board’s Guidelines No. 16 in that more than 50% of the total site area and gross floor area were for non-GIC uses.

38. After further deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the

Paper and considered that they were appropriate. The reasons were:

- (a) the “G/IC” zone was intended primarily for the provision of GIC facilities to serve the needs of the local residents as well as the general public. The application, which was solely for non-GIC use, was considered not in line with the planning intention of the “G/IC” zone; and
- (b) the application was considered not in line with the Town Planning Board Guidelines No. 16 for “Application for Development/Redevelopment within “G/IC” Zone for Uses other than GIC Uses under section 16 of the Town Planning Ordinance” in that more than 50% of the total site area or gross floor area of the proposed development was for non-GIC use and hence should be considered by way of an application for rezoning.

Procedural Matters

Agenda Item 5

[Open meeting]

Information Note and Hearing Arrangement
for Consideration of Representations and Comments to
the Draft Shek Kwu Chau Outline Zoning Plan No. S/I-SKC/1
(TPB Paper No. 8962)

[The meeting was conducted in Cantonese.]

39. The Secretary said that on 29.4.2011, the draft Shek Kwu Chau Outline Zoning Plan (OZP) No. S/I-SKC/1 was exhibited for public inspection under s.5 of the Town Planning Ordinance. During the 2-month exhibition period, 33 representations were received. On 15.7.2011, the representations were published for public comments and, in the first three weeks of the publication period, four public comments were received.

40. The Secretary said that as all the representations and comments were related to the proposed integrated waste management facilities (IWMF) and ancillary facilities on

proposed reclamation to the south-west of Shek Kwu Chau, which were of significant territorial interests and had attracted wide public interests, it was recommended that the representations and comments should be considered by the full Board without resorting to the appointment of a Representation Hearing Committee. As most of the representations and comments were submitted in respect of the proposed IWMF in the form standard or similar letters, and the grounds of representations were also similar in nature and inter-related, it was suggested that the Board should consider the representations and related comments collectively.

41. After deliberation, the Board agreed that the representations and comments should be heard collectively by the Board in the manner as proposed in paragraph 2.3 of the Paper.

Agenda Item 6

[Open meeting]

Information Note and Hearing Arrangement

for Consideration of Representations and Comments to

the Draft Urban Renewal Authority Staunton Street/

Wing Lee Street Development Scheme Plan No. S/H3/URA1/3 and

Draft Sai Ying Pun & Sheung Wan Outline Zoning Plan No. S/H3/26

(TPB Paper No. 8964)

[The meeting was conducted in Cantonese.]

42. The following Members declared interests on this item:

- | | | |
|----------------------|---|--|
| Mr. Walter K.L. Chan | - | being a Non-Executive Director of the URA |
| Mr. Maurice W.M. Lee | - | being a former Non-Executive Director of the URA |
| Mr. B.W. Chan | - | being the Chairman of the Appeal Board Panel under the URA Ordinance |

- Dr. James C.W. Lau - being a Member of the Appeal Board Panel under the URA Ordinance
- Mr. Raymond Y.M. Chan) being Members of the Home Purchase
- Professor Edwin H.W. Chan) Allowance Appeals Committee
- Ms. Maggie M.K. Chan - being a Member of the Home Purchase Allowance Appeals Committee and had an office in Sheung Wan
- Professor P.P. Ho - spouse owned two flats in Sheung Wan
- Mr. Clarence W.C. Leung - mother owned a flat in Sai Ying Pun
- Mr. Roger K.H. Luk - being a Council Member of St. Paul's College located in the district
- Mr. Jimmy C.F. Leung) being Members of the Board of Directors of
- Miss Annie Tam) the URA
- Mr. Eric Hui - being an alternate co-opt Member of the Planning, Development and Conservation Committee of the URA

43. The Board noted that Mr. Maurice M.W. Li, Mr. Raymond Y.M. Chan, Professor Edwin H.W. Chan, Ms. Maggie M.K. Chan, Professor P.P. Ho, Mr. Clarence W.C. Leung and Miss Annie Tam had tendered apologies for not being able to attend the meeting. Members also agreed that the item was procedural in nature, the above Members should be allowed to stay at the meeting.

44. The Secretary said that on 8.7.2011, the draft Urban Renewal Authority (URA) Staunton Street/Wing Lee Street Development Scheme Plan (DSP) No. S/H3/URA1/3 and the draft Sai Ying Pun & Sheung Wan Outline Zoning Plan (OZP) No. S/H3/24 were exhibited for public inspection under s.5 of the Town Planning Ordinance. During the 2-month exhibition period, 28 representations to the DSP and OZP were received, four of which related to both plans, 21 were related to the DSP only and three were related to the OZP only. On 4.10.2011, the representations were published for public comments and, in the first three weeks of the publication period, eight public comments were received.

45. The Secretary said that the amendments to DSP and OZP mainly involved the excision of the Wing Lee Street area and the Bridges Street Market site from the DSP and

incorporation of the excised area into the OZP with building height restrictions. As the amendments had attracted wide public interest, it was recommended that the representations and comments should be considered by the full Board without resorting to the appointment of a Representation Hearing Committee. As the representations and comments were mainly related to the same representation site and were mostly similar in nature, it was suggested that the Board should consider the representations and related comments collectively.

46. After deliberation, the Board agreed that the representations and comments should be heard collectively by the Board in the manner as proposed in paragraph 2.7 of the Paper.

Tuen Mun and Yuen Long District

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-TT/277

Temporary Outdoor Mini-Motorcycle Ground with Ancillary Barbecue Area
for a Period of 3 Years in “Agriculture” zone

Lots 1811(Part), 1812(Part), 1813, 1814(Part) and 1815 s.A to s.D, s.E & s.J(Part)
in D.D. 117 and Adjoining Government Land

(TPB Paper No. 8963)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

47. The following representative of the Planning Department (PlanD) and the applicants and their representatives were invited to the meeting at this point:

Ms. Amy Cheung

District Planning Officer/Tuen Mun
and Yuen Long, (DPO/TMYL), PlanD

Mr. Ho Yun Fat

Applicant

Mr. Ho Kwai Wah	Applicant
Mr. Yu Yau Fat)
Mr. Yu Yau Cheung) Applicants' Representatives
Ms. Lee Kwai Mui)
Mr. Wong Lei Sheung)

48. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited Ms. Amy Cheung to brief Members on the background of the application.

49. With the aid of a Powerpoint presentation, Ms. Amy Cheung presented the application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for temporary outdoor mini-motorcycle ground with ancillary barbecue area for a period of three years on the application site zoned "Agriculture" ("AGR") on the Tai Tong Outline Zoning Plan (OZP);
- (b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 18.3.2011 for the following reasons:
 - (i) the development was not in line with the planning intention of the "AGR" zone which was intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justification had been given in the submission for a departure from the planning intention, even on a temporary basis; and
 - (ii) adverse noise impact and nuisance from the development were envisaged. No technical submission had been submitted to demonstrate that the applied use would not generate adverse environmental impact on the surrounding areas;

- (c) the applicant had submitted a letter on 15.9.2011 requesting the Board to grant planning permission for the use for a shorter period of 12 months on sympathetic grounds and providing justifications for the review application and the major grounds were summarized in paragraph 3 of the TPB Paper;
- (d) departmental comments – the Director of Environmental Protection (DEP) advised that the activities under application were noise emitters. As the application site was located in a quiet and tranquil environment, noisy activities such as engine noise, human shouting and chatting would likely cause noise nuisance to the nearby sensitive receivers. There were some domestic structures in the vicinity and the nearest one was only about 5m away from the site boundary. The applicant did not submit any technical assessment of noise impact on the nearby noise sensitive receivers nor on the effectiveness of the noise reduction provided by the proposed 2.5m high boundary wall along the southern site boundary. DEP therefore did not support the application. The Director of Agricultural, Fisheries and Conservation (DAFC) did not favour the application from the agricultural development point of view as there were active farming activities in the vicinity of the site and the potential for agricultural rehabilitation at the site seemed high;
- (e) public comments – one public comment was received. The commenter objected to the application on the grounds that the applied use was not in line with the planning intention of the “AGR” zone, and the development would cause adverse environmental, landscape, traffic and drainage impacts on the surrounding area;
- (f) PlanD’s views – PlanD did not support the review application based on the assessments set out in paragraph 7 of the Paper, which were summarized below:
 - (i) the site was the subject of a previous application No. A/YL-TT/221 for the same use by the same applicants, which was approved by the

Board on a temporary basis for one year on sympathetic consideration as the applied use was for private recreation purpose and the possible adverse impacts could be minimized by imposing appropriate approval conditions. However, the planning approval was later revoked on 16.10.2008 as the applicants failed to comply with the approval conditions on submission and implementation of drainage, landscape and tree preservation and Fire Service Installations (FSIs) and emergency vehicular access (EVA) proposals;

- (ii) in 2010, the applicants submitted another application (No. A/YL-TT/248) for the same use. The application was rejected by the Board on review as the applicants failed to demonstrate that the applied use would not have adverse environmental impact on the surrounding areas and there was no technical submission to demonstrate that the applied use would not have adverse drainage and fire safety impacts. The subsequent appeal was also dismissed by the Town Planning Appeal Board as the appellants and their authorized representative did not appear at the appeal hearing;
- (iii) although the applicants indicated that the site had been paved with asphalt and could not be converted back to agricultural use, DAFC maintained his previous stance that the site had high potential for agricultural rehabilitation since there were still active farming activities in the vicinity of the site. No strong planning justification had been given in the submission to justify a departure from the planning intention of the “AGR” zone, even on a temporary basis;
- (iv) DEP was of the view that the proposed outdoor motorcycle ground and barbeque area at the site were noise emitters, irrespective of whether the site was a private or commercial operation, and they could cause nuisance to the nearby sensitive receivers, including the nearest domestic structure at about 5m away from the site boundary. Site visit revealed that this domestic structure was occupied by a

farmer. Moreover, the village cluster of Yeung Ka Tsuen was located just about 130m to the southeast;

- (v) DEP advised that the applicant did not submit any technical assessment on the noise impact of the applied use. There was also no technical assessment on the effectiveness of the proposed boundary wall in noise reduction. There were doubts as to whether the possible adverse environmental impacts on the surrounding areas could be addressed by imposing approval conditions; and
- (vi) two environmental complaints were received in 2007 which related to noise and air nuisance from the applied use. These reflected the possible impacts of the use on the surrounding tranquil environment.

50. The Chairman then invited the applicants and their representatives to elaborate on the application.

51. Mr. Ho Yun Fat made the following main points:

- (a) except DEP and DAFC, all relevant departments had no objection to the application;
- (b) while DAFC did not support the application, it should be noted that after the Board approved the previous application for the same use for one year on 16.5.2008, the applicant had already paved the site with asphalt and it could not be restored for agricultural use;
- (c) the structure located 5m away from the application site was only a farm structure for a farmer working nearby to take rest. It was not for residential purpose. The owner of the structure, Mr. Wong Lei Sheung, had been invited to the hearing to indicate his no objection to the application;
- (d) the residential development 40m away from the application site was owned

by Ms. Lee Kwai Mui, who indicated support to the subject application. Ms. Lee was also present at the hearing today to indicate her support to the application;

- (e) during the operation of the mini-motorcycle ground subsequent to the approval by the Board in 2008 for a temporary period of one year, no complaint on the use had been received;
- (f) the applicant proposed to install a 2.5m tall solid wall along the southern boundary of the application site as a noise barrier. However, the employment of a consultant to assess the effectiveness of the solid wall would cost HK\$80,000. The cost was considered too high as the mini-motorcycle ground was only for use by the villagers and was not revenue generating; and
- (g) the applicant proposed to shorten the approval period to one year only and the operation hours would be restricted to between 10:00am to 6:00pm. The failure to comply with the previous approval conditions was due to poor communication with the applicants' consultants. The applicant had already made submissions to address the technical issues and relevant departments had no objection to the application.

52. A Member noted that the site was subject to enforcement action as the use for outdoor mini-motorcycle ground with ancillary barbecue constituted an unauthorized development. He asked how the applicants could confirm that he would undertake the approval conditions if the Board approved the application. This Member also asked whether the site was paved by the applicants after the approval of the previous application by the Board in 2008, and whether there was any approval condition requiring the reinstatement of the site upon expiry of the planning permission.

53. In response, Mr. Yu Yau Fat said that the failure to comply with the previous approval conditions was only due to the poor communication with the consultants and thus the submission of technical documents to relevant departments was delayed. Mr. Yu said that the owners of the only residence 40m away from the application site and the farm

structure 5m away did not object to the application.

54. Ms. Amy Cheung said that the previous planning permission granted in 2008 was subject to a condition that, upon expiry of the planning permission, the site should be reinstated to an amenity area.

55. In response to the Chairman's questions, Mr. Yu Yau Fat said that the outdoor mini-motorcycle ground was a private facility of the villagers only. It was not run on a commercial basis. The facilities provided on the site were funded by villagers. It was also proposed that the mini-motorcycle ground would only be operated between 10:00am to 6:00 pm on weekdays and public holidays.

56. In response to a Member's question, Mr. Ho Yun Fat said that the applicant did not appear at the appeal hearing for the previous application No. A/YL-TT/248 as he did not receive any notice concerning the appeal.

57. Mr. Benny Wong asked if Miss Lee Kwai Mui was the owner of the house located 40m away from the application site. Miss Lee confirmed that the house was owned by her father. She was at present living in the house.

58. In response to another Member's question, Miss Lee Kwai Mui said that she provided comment on the application as she lived within a distance of 100m from the application site and she did not represent any other villager.

59. In response to Mr. Benny Wong's questions on the proposed 2.5m tall solid wall, Mr. Ho Yun Fat said that the 2.5m tall solid wall had not been built as there was a lack of funding. If the Board considered that the wall was necessary as a mitigation measure against the noise impact of the applied use, the applicants would collect money from the villagers to build the wall. Ms. Amy Cheung said that the applicant did not propose the solid wall in the previously approved application.

60. Three Members raised questions on the mode of operation and management of the proposed motorcycle ground. In response, Mr. Ho Yun Fat said that the players would be required to be equipped with all safety devices when playing at the mini-motorcycle

ground. The players would need to buy their own equipment including the mini-motorcycles. The motorcycles could not be used on public roads. The applicant did not buy any insurance for the operation of the mini-motorcycle ground. As the players would be required to follow all safety requirements of the Hong Kong Automobile Association, it was not expected to have accidents in the playing ground.

61. As the applicants and their representatives had no further comment to make and Members had no further questions, the Chairman informed the applicants and their representatives that the hearing procedures for the review had been completed and the Board would further deliberate on the application in their absence and inform them of the Board's decision in due course. The Chairman thanked the applicants and their representatives and the representative of PlanD for attending the meeting. They all left the meeting at this point.

Deliberation Session

62. A Member said that in considering the application, the Board should take into account the safety issue of the applied use. He noted that the applicant did not provide any information on the operation and management of the motorcycle ground. This view was shared by another Member.

63. Two Members raised concern that the applicant failed to comply with the approval conditions of the previously approved scheme. One of them pointed out that the applicant also did not appear at the appeal hearing. A Member also cast doubt on the applicant's claim that the mini-motorcycle ground was a private facility used by the villagers only.

[Mr. Fletch Chan arrived to join the meeting at this point.]

64. Mr. Benny Wong said that the applicants did not submit any assessment to demonstrate the effectiveness of the proposed 2.5m tall solid wall to mitigate the potential noise impact generated from the use. There were also complaints received previously on noise and air nuisance generated by the use.

65. After further deliberation, the Chairman concluded Members' views that the application should not be approved as the previous application was approved for one year on sympathetic consideration, but the applicants failed to comply with the planning conditions resulting in the revocation of the planning permission; the use was not in line with the planning intention of the "AGR" zone; and the applicants had not made any technical submission to demonstrate that the use would not generate adverse environmental impact on the surrounding areas.

66. After further deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were:

- (a) the development was not in line with the planning intention of the "AGR" zone which was intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justification had been given in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) adverse noise impact and nuisance from the development were envisaged. No technical submission had been submitted to demonstrate that the applied use would not generate adverse environmental impact on the surrounding areas.

Procedural Matters

Agenda Item 7

[Open Meeting]

Submission of the Draft Tai Tong Outline Zoning Plan No. S/YL-TT/15A
under Section 8 of the Town Planning Ordinance
to the Chief Executive in Council for Approval
(TPB Paper No. 8969)

67. The Secretary said that on 6.7.2010, the Chief Executive in Council (CE in C) referred the approved Tai Tong OZP No. S/YL-TT/14 to the Board for amendment under section 12(1)(b)(ii) of the Town Planning Ordinance (the Ordinance). On 8.4.2011, the draft Tai Tong OZP No. S/YL-TT/15, incorporating amendments which mainly involved the rezoning of the former Au Tau Departmental Quarters site at Yau Shin Street and the adjoining slopes from “Government, Institution or Community” and “Green Belt” to “Residential (Group A)”, was exhibited for public inspection under s.5 of the Ordinance. During the 2-month exhibition period, three representations were received. On 17.6.2011, the representations were published for public comments and in the first three weeks of the publication period, no comment was received.

68. The Secretary said that on 28.10.2011, after giving consideration to the representations, the Board noted the supportive views of representation R2 and decided not to uphold representations R1 and R3. As the plan-making process had been completed, the draft Tai Tong OZP was ready for submission to the CE in C for approval.

69. After deliberation, the Board:

- (a) agreed that the draft Tai Tong OZP No. S/YL-TT/15A and its Notes were suitable for submission under s.8 of the Ordinance to the CE in C for approval;
- (b) endorsed the updated Explanatory Statement (ES) for the draft Tai Tong OZP No. S/YL-TT/15A as an expression of the planning intention and

objectives of the Board for the various land use zonings on the draft OZP and issued under the name of the Board; and

- (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 8

[Closed Meeting]

- 70. This item was recorded under confidential cover.

Agenda Item 9

[Closed Meeting]

- 71. This item was recorded under confidential cover.

Agenda Item 10

[Closed Meeting]

- 72. This item was recorded under confidential cover.

Agenda Item 11

[Closed Meeting]

- 73. This item was recorded under confidential cover.

Agenda Item 12

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

74. There being no other business, the meeting closed at 10:40 am.